STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Amended	**6/12/00**	Bill No:	**SB 1417**
Tax:	**Property**	Author:	**Wright**
Board Position:	**Support – rescissions** **No position – Intercounty ordinances**	Related Bills:	

BILL SUMMARY:

This measure would 1) require the assessor, upon a taxpayer's request, to rescind the once in a lifetime base year value transfer for a person over the age of 55 years if the home was vacated within 90 days after the claim is filed, and 2) permit intercounty base year value transfers to be granted prospectively in counties that change the effective date of their ordinance where the period for filing a timely claim would have otherwise expired.

ANALYSIS:

Rescissions

Current Law:

Pursuant to Propositions 60, 90, and 110, persons who are over the age of 55 years or who are severely and permanently disabled are permitted to transfer, *once in a lifetime,* their Proposition 13 base year value from one home to another of equal or lesser value. Existing law provides that, in certain instances, a claimant may rescind their previously filed claim for a base year value transfer. To qualify for a rescission, the request must be made before property taxes on the new home are delinquent, or before any property tax refund is issued. The assessor may levy a fee to cover the costs of processing the base year value transfer rescission.

Proposed Law:

This bill would amend Section 69.5 of the Revenue and Taxation Code to require, notwithstanding any other provision of law, the assessor to grant a property owner's request to rescind a base year value transfer in the case where the new home was vacated as the claimant's principal place of residence within 90 days after the date the original claim for a base year value transfer was filed. The request to rescind the transfer must be made within six years after the transfer was granted.

In General:

California's system of property taxation under Article XIIIA of the State Constitution (Proposition 13) values property at its 1975 fair market value, with annual increases limited to the amount of inflation or 2%, whichever is less, until the property changes ownership or is newly constructed. At the time of the ownership change or new construction, the value of the property for property tax purposes is redetermined based on current market value. The value initially established, or redetermined where appropriate, is referred to as the "base year value." Thereafter, the base year value is subject to annual increases for inflation. This value is referred to as the "factored base year value."

Proposition 60 (1986) amended the constitution to authorize the Legislature to provide an exception to the general requirement that property be reassessed to current market value by providing for a one-time transfer of base year value from a former principal place of residence to a replacement dwelling, under certain conditions, by qualified persons who are over the age of 55 years. Proposition 90 (1988) further amended the constitution to authorize such base year value transfers to replacement dwellings located in another county, provided the county board of supervisors of that county adopts an ordinance accepting such transfers. Proposition 110 (1990) extended these base year value provisions to persons who are severely and permanently disabled.

Revenue and Taxation Code Section 69.5 provides generally that any person over the age of 55 years, or any person who is severely and permanently disabled, may qualify for relief from provisions of law that would otherwise require a reassessment of a newly acquired residence to current market value. Section 69.5 provides such relief by allowing an eligible claimant to transfer, *one time only*, the existing base year value of a sold residence to the new residence as long as both residences are located in the same county and the new residence is of equal or lesser value. The law permits that a claimant may transfer their base year value to a newly acquired residence that is located in *another* county, but only if the county board of supervisors of the receiving county has adopted an ordinance accepting such base year value transfers. Currently, only 10 of the 58 counties have opted to grant this property tax benefit: Alameda, Kern, Los Angeles, Modoc, Monterey, Orange, San Diego, San Mateo, Santa Clara, and Ventura. In the past, four other counties have had ordinances which are no longer in effect: Contra Costa (repealed 11-8-93), Inyo (repealed 10-13-94), Riverside (repealed 7-1-95), and Marin (repealed 1-16-97).

COMMENTS:

1. **Sponsor and Purpose.** According to the author's office, this measure is intended to address a specific case in which a property owner has been unable to obtain a rescission of their base year value transfer after they discovered the climate of the location of their replacement home in Riverside County was not suitable for them. Apparently the property owner would have been eligible to rescind their base year value transfer under existing law if they had been aware of the ability to do so.

However, due to a miscommunication with the Riverside County Assessor's Office, they were left with the impression that a rescission was not possible. The property owner subsequently purchased a home in Ventura County and filed for a base year value transfer. This claim was denied because the property owners had previously received a base year value transfer on their Riverside County home. The property owners appealed this ruling and the Ventura County Assessment Appeals Board has held open their appeal while a legislative solution, which is contained in this measure, is attempted to permit the property owner to rescind the prior base year value transfer.

2. **Amendments.** The April 10 amendment provides that the rescission request must be made within six years after the transfer was granted to provide a specific time period after which a rescission would not be permitted. This amendment was made to address a concern raised by Riverside County that the provisions permitting a rescission under this bill (where a person vacates the home 90 days after the original claim was filed) were open ended so that regardless of the number of years that had elapsed after the base year value transfer had been granted, the taxpayer's rescission request would be granted. With this amendment, a rescission request made after the six year time frame would not be permitted. (In the specific case at hand, the transfer was granted in March of 1993 and a written request to rescind the transfer was made in July of 1998.)

3. **Current law permits a homeowner to rescind their base year value transfer after the assessor has processed the transfer request but before the date a tax refund is issued or a tax bill becomes delinquent, as the case may be.** These provisions were added to the law for the specific purpose of clarifying in statute that rescissions were permissible after the issue was raised several times by inquiring assessors and taxpayers. The principle of permitting rescissions is that taxpayers should not be forced to retain a tax benefit when they are willing to repay the tax savings they received.

4. **The base-year value transfer provision is a once in a lifetime benefit.** The long term property tax savings from this benefit can be significant. Some persons have used their one-time benefit on a home which they expected to be their permanent home for their retirement years, but then discovered that home or location was not suitable for a variety of reasons: their health, family needs, or climate.

5. **These provisions would make it possible for the property owner in this specific instance to rescind their claim and pay back the property tax savings plus interest to the county.** Where an inter-county transfer is involved, as in this instance, the rescinding county (Riverside County) will ultimately receive <u>more</u> property tax revenue. For instance, if the home was assessed at $100,000 as a result of a base year value transfer, rather than its fair market value of $300,000, then once the recission is granted, the taxpayer would receive a tax bill via an escape assessment based on an additional $200,000 of assessed value per tax year. In addition, this measure provides that interest be added to the escape assessment. The result is a revenue <u>benefit</u> for the rescinding county.

6. **This provision also permits the rescinding county to charge a fee to cover all reasonable costs of processing the rescission request.** Thus, the rescinding county need not incur any unfunded administrative costs.

Intercounty Ordinance – Effective Date

Existing Law:

Existing law provides that a claimant may transfer their base year value to a newly acquired residence that is located in another county, but only if the county board of supervisors of the receiving county has adopted an ordinance accepting such base year value transfers. Section 69.5(a)(2)(E) provides that a county may specify an effective date that is earlier than the actual date the ordinance is adopted, but no earlier than November 9, 1988 (the effective date of Proposition 90).

Section 69.5(e)(B)(5) requires, in part, that to receive a base year value, a person must file a claim within three years of the date the replacement home is purchased or constructed.

Proposed Law:

This provision would add subdivision (k) to Section 69.5 to provide that if a county adopts an ordinance with an effective date that is more than three years prior to the actual date the ordinance is adopted, that those persons who would have been eligible to receive a base year value transfer, except that an ordinance had not been in effect at the time they purchased their home and who would otherwise be precluded from filing a "timely" claim because the three year period to file a claim had elapsed, could file and receive a base year value transfer on a prospective basis. A base year value transfer that is granted under this provision would not result in a refund or cancellation of property taxes previously paid. Thus, the base year value transfer would be granted prospectively.

COMMENTS:

1. **Sponsor and Purpose.** This provision is sponsored by the Ventura County Assessor, Dan Goodwin. Ventura County adopted an intercounty base year value transfer ordinance on May 4, 1992. The county would like to amend their ordinance to specify an effective date that coincides with the effective date of Proposition 90, so that persons who purchased a replacement home between November 9, 1988 and May 4, 1992, and previously ineligible to receive a base year value transfer, can receive this property tax benefit on a prospective basis. While Ventura County may amend the effective date of their ordinance under current law, it would have no practical effect since a claim must be filed within three years of the date the replacement property is purchased. To remedy this situation, this measure would allow a three year filing period that commences on the new date the ordinance is adopted.

COST ESTIMATE:

The Board would incur some minor absorbable costs in informing and advising county assessors, the public, and staff of the change in law.

REVENUE ESTIMATE:

Background, Methodology, and Assumptions

The first provision of this bill only impacts certain rescissions that have been denied because deadlines were missed. In addition, the replacement property that received the benefit of the original claim must have been vacated as the claimant's principal place of residence within 90 days after the original claim was filed. Under existing law, taxpayers are only allowed to claim a transfer of base year value once (except for certain special circumstances not relevant to this bill). Under this bill, the taxpayer could later claim a transfer of base year value to another property. Therefore, the real impact of this bill is in the subsequent claims that can be filed after the original claims are rescinded.

During the 1998-99 fiscal year, 12,914 claims were filed for a transfer of base year value. Based on information that Board of Equalization staff obtained from the counties, less than 0.5 percent of these claims were denied rescissions because deadlines were missed. Assuming 10 percent of these denials met the requirements of this bill, then the estimated number of subsequent claims that could be filed after the original claims were rescinded would be less than:

12,914 x .5% x 10% = 6

The estimated average assessed value reduction per claim is $200,000. To the extent this provision would allow future claims, the estimated annual revenue decrease at the basic 1 percent property tax rate would then be less than:

6 x $200,000 x 1% = $12,000.

Intercounty Ordinance – Effective Date

This measure would also change the filing dates for certain potential claimants when the county board of supervisors adopts an ordinance allowing intercounty base year value transfers when the applicable date of the ordinance is more than three years prior to the date of the adoption of the ordinance. Currently, the claim must be filed within three years of the date the replacement dwelling was purchased or the new construction of the home was completed. Under this proposal, potential claimants who acquired their replacement dwelling after the applicable date but more than three years prior to the adoption of the ordinance will have up to three years following the adoption of the ordinance to file their claim when the applicable date of the ordinance is more than three years prior to its adoption.

Under Section 69.5 of the Revenue and Taxation Code, the earliest applicable date for intercounty base year transfers is November 8, 1988. Of the ten counties that currently accept intercounty base year transfers, only Ventura and Monterey have effective dates later than November 1988. However, Monterey County's ordinance is scheduled to sunset on January 9, 2001. Thus, with the expected sunset of the ordinance in Monterey early next year and with the expectation that no other county will adopt an ordinance, it is anticipated that this measure will affect only Ventura County.

This measure would affect only qualifying transfers in Ventura County that occurred after November 8, 1988 and before May 4, 1992, the current effective date in the county. Dan Goodwin, Ventura County Assessor, estimates that there are, at most, 230 properties in Ventura County that would be affected by this proposal. The estimated average assessed value reduction per claim is $90,000. The estimated annual revenue decrease at the basic one percent property tax rate would then be less than:

$$230 \times \$90{,}000 \times 1\% = \$207{,}000$$

The annual revenue loss will diminish over time as the dwellings eventually change ownership.

Revenue Summary

Rescissions. The portion of this bill dealing with rescissions would reduce property tax revenues by less than $12,000 annually. Because this bill requires assessors to impose escape assessments or supplemental assessments if the rescission increases the base year value of the property rescinded, these escape or supplemental assessments would offset some of the revenue loss.

Intercounty Ordinance – Effective Date. The provisions of this bill dealing with intercounty base year transfers would reduce annual property tax revenues by less than $207,000. This annual revenue loss will diminish over time as the affected properties are eventually sold or transferred to other owners.

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